REMARKS

The Examiner's help in addressing the outstanding issues during the March 2, 2004 Examiner's Interview is greatly appreciated.

Claims 1-30 are presented for examination. Claims 1, 4, 16, 18, 19 and 23 have been amended to more clearly define the claimed invention and to correct errors. It is submitted that the claim amendments do not narrow the scope of the claims for reasons related to the statutory requirements for a patent.

Claim 4 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 4 recites that the customer is enabled to choose the items pre-selected based on evaluations made by experts having a desirable fashion orientation. The Examiner considers the expression "fashion orientation" to be unclear. In response, claim 4 and claim 19 containing the similar expression have been amended to replace the word "orientation" with --preference--. As described on page 13 of the specification, a group of clothes items may be selected, for example, by experts in conservative clothes or experts in clothes for younger people.

Claims 1-5, 7-14, 16-20, 22, and 24-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rose. Dependent claims 8, 15, 21 and 23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rose in view of Weaver.

Claim 1, as amended, recites a system for selling goods that comprises an electronic device configured to enable a customer to access a group of items pre-selected for the customer based on an evaluation made when the goods are tried on by a human model having individual characteristics representing characteristics of the customer.

The Examiner admits that Rose does not disclose the claimed evaluation made when the goods are tried on by a human model. However, the Examiner concludes that it would have been

obvious to modify Rose to use a human model. The conclusion of obviousness is respectfully traversed for the following reasons.

Considering the reference, Rose discloses a method of manual fashion shopping by a customer using a video device. The method comprises receiving the customer's body measurements, and providing a database including graphic images of clothing items. The database enables the customer to select a clothes item among all items for each fashion category. The shopping system determines a size of the customer, and outputs the closest size to the computer screen or printer. For this size, the system generates a virtual mannequin of the customer's body, which shows the customer how a selected fashion will fit and look.

However, the Rose system does not use a human person to pre-select items for customers based on evaluation of the items being tried on, to enable the customers to select among a smaller group of pre-selected items.

By contrast, the claimed invention adds a "human factor" in a process of electronic purchasing. In a traditional electronic purchasing system, a customer is not able to try a product, such as a clothes item, when it is ordered electronically. Therefore, the system of the present invention uses a human model having individual characteristics representing characteristics of the customer to try on the item instead of the customer. As a result, the customer is enabled to select products among a smaller group of items pre-selected based on an evaluation made when the goods are tried on by the human model.

Rose does not teach or suggest the claimed system.

Independent claim 14, as amended, recites a method of selling goods, comprising the steps of:

- selecting human models representing categories of a pre-set classification of goods,

- trying on the goods by the human models of the respective categories,

- evaluating the goods when the goods are tried on to determine an evaluation result,

- obtaining individual characteristics of a customer to determine to which category in the pre-set classification the customer belongs, and

- enabling the customer to access a group of items pre-selected based on the evaluation result in the category to which the customer belongs.

As discussed above, Rose neither teaches nor suggests the claimed steps involving human models.

Independent claim 27, as amended, recites a retail system comprising;

- a plurality of retail facilities for selling pre-ordered food products, and

- an ordering mechanism for enabling customers to order clothes items, together with the food products, for delivery at a designated retail facility of the plurality of retail facilities.

The claim specifies that the ordering mechanism includes an electronic device configured for displaying images of human models wearing the clothes items.

As the Examiner admits, Rose does not disclose selling pre-ordered food products. The reference does not suggest enabling customers to order clothes items, together with the food products, for delivery at a designated retail facility for selling pre-ordered food products. Moreover, the reference does not suggest displaying images of human models wearing the clothes items.

The claimed invention makes it possible to combine ordering clothes items with ordering food products to reduce the retail cost by transporting clothes items together with pre-ordered food products, and by using the same retail facility for selling pre-ordered food products and cloth items.

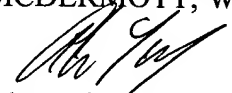
It is well settled that the test for obviousness is what the combined teachings of the references would have suggested to those having ordinary skill in the art. ***Cable Electric Products, Inc. v. Genmark, Inc.***, 770 F.2d 1015, 226 USPQ 881 (Fed. Cir. 1985). In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification. ***In re Lalu***, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1984).

As demonstrated above, the prior art teachings are not sufficient to one skilled in the art to arrive at the invention claimed in independent claims 1, 14 and 27. Therefore, the claims are not obvious over the prior art. The dependent claims are defined over the prior art at least for the reasons presented above in connection with the respective independent claims.

In view of the foregoing, and in summary, claims 1-30 are considered to be in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,
MCDERMOTT, WILL & EMERY



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